



City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2402352
Applicant Name: Roque DeHerrera and Michael Kimelberg
Address of Proposal: 2905 E. Olive St.

SUMMARY OF PROPOSED ACTION

Master Use Permit to subdivide one parcel of land into two unit lots in an Environmentally Critical Area. This subdivision of property is only for the purpose of allowing sale or lease of the unit lots. Development standards will be applied to the original parcel and not to each of the new unit lots. The existing two-unit townhouse is to remain.

The following approvals are required:

Short Subdivision - To divide one parcel of land into two unit lots.
(Seattle Municipal Code Chapter 23.24)

SEPA - Environmental Determination (Seattle Municipal Code Chapter 25.05)

SEPA DETERMINATION: ☐ Exempt ☒ DNS ☐ MDNS ☐ EIS

☐ DNS with conditions

☐ DNS involving non-exempt grading, or demolition, or
another agency with jurisdiction.

BACKGROUND DATA

Site Description

The proposal site is approximately 7,202 square feet and is located in a single family zone (SF5000) on the corner of East Olive Street and 29th Avenue. Both, East Olive Street and 17th Avenue are two-lane paved streets with sidewalks, curbs and gutters on both sides.

The lot has approximately 60-feet of street frontage along 29th Avenue and approximately 120.04 square feet on East Olive Street. The site also abuts a 16-foot wide improved alley. Site vegetation includes grass, shrubs and trees. The site is developed with an existing two-unit residence (duplex). The existing duplex was built in 1944 by Permit #363688. There was no code requirement for parking at that time; parking is not required for this unit-lot subdivision.

Area Development

Zoning in the vicinity is predominately Single-family. The subject site and surrounding area is zoned Single-family (SF5000). In combination, these areas are developed with single-family and multi-family structures.

Proposal Description

The applicant proposes to subdivide one parcel of land into two unit lots. Proposed unit lot sizes are: A) 3,332.5 square feet and B) 3,869.5 square feet. Required vehicle access for the two unit lots would be from the adjacent 16-foot wide alley, however, there is an existing parking deficit of two parking spaces due to the year the two-unit duplex was constructed.

Public Comments

The public comment period for the proposed project ended on May 12th, 2004 and no comments were received.

ANALYSIS - SHORT SUBDIVISION

Pursuant to SMC 23.24.040, no short subdivision shall be approved unless all of the following facts and conditions are found to exist. The findings which follow are based upon information provided by the applicant; review of access, drainage and zoning within the Department of Planning and Development (DPD), review from Seattle Public Utilities, Seattle Fire Department and Seattle City Light, and review by the Land Use Planner.

1. *Conformance to the applicable Land Use Code provisions;*

The existing parent lot subject to this subdivision does not conform to all development standards of the SF5000 zone, but is recognized as an existing legal nonconformity. The unit lots proposed by this subdivision conform to the standards for unit lot subdivisions (SMC 23.24.045) and other code provisions applicable to unit lot subdivisions. Any new development must conform to code requirements for the parent lot at the time of application.

2. *Adequacy of access for vehicles, utilities and fire protection as provided in Section 23.53.005;*

Parking is not required due to the year the two-unit residence (duplex) was constructed. Pedestrian access to the unit lots would be obtained from the street. However, a 3-foot wide pedestrian access easement on Unit Lot "B" and a 2 foot wide pedestrian access easement on

Unit Lot "A" is required from the street for the benefit of both unit lots. In order to insure that the use and maintenance responsibilities associated with the common areas are clear, the applicant/responsible party will be required to record an easement maintenance agreement with the final short plat.

The Seattle Fire Department has reviewed the proposed lot configuration with regard to fire protection and emergency vehicle access and has no objection. No improvements were requested by the Fire Department.

Seattle City Light has reviewed the short plat and requires an Overhead and Underground easement on the west 30 feet of the south 39 feet, and the south 13.1 feet of the west 60 feet of the original lot, Exhibit "A".

As conditioned, this short plat provides for adequate access for vehicles, utilities, and fire protection.

3. *Adequacy of water supply, sanitary sewage disposal, and drainage;*

Sanitary Sewer: Sanitary sewer issues, both public and private, have been resolved, or will be resolved, at the time of side sewer permit issuance.

Drainage: Drainage issues, both public and private, have been resolved, or will be resolved, at the time of side sewer permit issuance.

Seattle Public Utilities reviewed the unit lot subdivision application and approved a Water Availability Certificate, No. 2004-0976 on July 6th, 2004. All conditions on the certificate must be met prior to receiving water service.

4. *Whether the public use and interests are served by permitting the proposed division of land;*

The proposed unit lot subdivision meets the minimum provisions of the Seattle Land Use Code. The proposal meets all applicable criteria for approval of a short plat as discussed in this analysis and decision. The public use and interests are served by permitting the proposed division of land.

5. *Conformance to the applicable provisions of SMC Section 25.09.240, short subdivision and subdivisions in environmentally critical areas;*

The site is an Environmentally Critical Area because it is a steep slope and potential landslide area. The existing structure, to remain, was built in 1944 by permit #363688. There is no construction associated with this project, so there is no impact to the environmentally critical area.

6. *Is designed to maximize the retention of existing trees;*

Not applicable, as the development of the subject site was permitted by Permit #363688 in 1944. No trees are expected to be removed as a result of this short subdivision.

7. *Conformance to the provisions of Section 23.24.045, Unit lot subdivisions, when the short subdivision is for the purpose of creating separate lots of record for the construction and/or transfer of title of townhouses, cottage housing, clustered housing, or single-family housing.*

Section 23.24.045 of the Seattle Municipal Code provides that under certain circumstances some types of parcels may be created that do not individually meet the zoning requirements for lot size, setbacks, density, and structure width and depth. These are called unit lot subdivisions and may be permitted as long as the development as a whole meets development standards.

However, as a result of this subdivision, development on the individual lots may be non-conforming. To assure that future owners have constructive notice that additional development may be limited due to non-conformities; the following statement shall be required to be included as a note on the final short subdivision: "The unit lots shown on this site are not separate buildable lots. Additional development on any individual unit lot in this subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land Use Code, Chapter 23 of the Seattle Municipal Code."

SEPA DETERMINATION

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated April 19th, 2004. The information in the checklist, the supplemental information submitted by the applicant, field inspection, public comments and the experience of the lead agency with similar projects form the basis for this analysis and decision. Note that pursuant to SMC 25.05.908.B, the scope of the environmental review of the subject short subdivision is limited to:

1. Documenting whether the proposal is consistent with The City of Seattle Regulations for Environmentally Critical Areas, SMC Chapter 25.09; and
2. Evaluating potentially significant impacts on the environmentally critical area resources not adequately addressed in The City of Seattle Environmentally Critical Areas Policies or the requirements of SMC Chapter 25.09, Regulations for Environmentally Critical Areas, including an additional mitigation measures needed to protect the environmentally critical areas in order to achieve consistency with SEPA and other applicable environmental review laws.

The Department of Planning and Development has analyzed the environmental checklist submitted by the applicant; reviewed the project plans and the additional information in the file; and any comments which may have been received regarding this proposed action have been considered. As indicated in the checklist, this action may result in impacts to the environment.

However, due to their temporary nature and limited effects, the impacts are not expected to be significant.

Codes and development regulations applicable to this proposed project will provide sufficient mitigation and no further conditioning or mitigation is warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

The SEPA Overview Policy (SMC 25.05.665 D) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, certain neighborhood plans, and other policies explicitly referenced may serve as the basis for exercising substantive SEPA authority.

The Overview Policy states, in part, that "Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation" subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D1-7) mitigation can be considered.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

☒ [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030 2c.

☐ [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030 2c.

CONDITIONS - SEPA

None.

DECISION - SHORT SUBDIVISION

The proposed Short Subdivision is **CONDITIONALLY GRANTED**.

CONDITIONS - SHORT SUBDIVISION

Prior to Recording

The owner(s) and responsible party(s) shall:

1. Provide final recording forms and fees. Have the final recording documents prepared by or under the supervision of a Washington State licensed land surveyor. Each lot, parcel

or tract created by the short subdivision shall be surveyed in the field and all property corners set in conformance with appropriate state statute. The property corners set shall be identified on the plat and encroachments such as side yard easements, fences or structures shall be shown, as well as all structures and distances from them to the proposed property lines. All existing structures, principal and accessory, shall be shown on the face of the plat and their distances to the proposed property lines dimensioned. A licensed surveyor shall stamp the short plat drawings.

2. Insert the following on the face of the plat: "The unit lots shown on this site are not separate buildable lots. Additional development on any individual unit lot in this subdivision may be limited as a result of the application of development standards to the parent lot pursuant to applicable provisions of the Seattle Land Use Code, Chapter 23 of the Seattle Municipal Code."
3. Provide a joint maintenance and responsibility agreement for maintenance and use of shared walls on property lines and all ingress, egress and utility easements.
4. Provide the following statement on the face of the plat to reference the Overhead and Underground easement, Exhibit "A", required by Seattle City Light: "An easement is granted to Seattle City Light as shown on page _____.

Signature: _____ (signature on file) Date: July 22, 2004

Joan S. Carson, Land Use Planner II
Department of Planning and Development
Land Use Services

JSC:bg

Carson\UnitLotSubdivision\2402352.dec.doc